REMARKS

Claims 1-27 are pending in this application. By this Amendment, claims 2-4 and 11-12 are amended. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Claims 2-4 and 11-12 are amended to overcome the 35 U.S.C. §112, second paragraph rejection set forth in the August 28, 2002 Office Action, without narrowing their scope. Applicants assert that the amendments to claims 2-4 and 11-12 obviate the grounds for the rejection. Accordingly, Applicants respectfully request that the §112, second paragraph rejection of these claims be withdrawn.

The Office Action rejects claims 1-22 and 25-27 under 35 U.S.C. §103(a) over Kimura et al. (European Patent No. 0842913) ('913) in view of Kimura et al. (U.S. Patent No. 5,674,317) ('317). Applicants respectfully traverse this rejection.

Specifically, Applicants assert that neither '913 nor '317 disclose or suggest a pyrolytic boron nitride double container comprising *inter alia* an inner container and an outer container wherein the inner container transmissivity is 90% or less of the outer container transmissivity, as recited in independent claim 1.

In particular, the Office Action acknowledges that '913 fails to disclose a double container (Office Action, page 3, line 2). Moreover, '317 also teaches a single pyrolytic boron nitride container (1, Fig. 4), but that the pyrolytic boron nitride container is placed in a susceptor, thereby allegedly resulting in a "double container". However, the susceptor 2 is made from carbon (2; col. 5, lines 22-24), not from boron nitride, and therefore the combination of the single boron nitride container in a carbon susceptor does not correspond to a "pyrolytic boron nitride double container", as is recited in independent claim 1.

Additionally, contrary to what is stated in the Office Action, '913 does not disclose or suggest a transmissivity of an inner container being 90% or less than that of an outer

container. In fact, the Office Action is self-contradictory on this point. On the one hand, it concedes that '913 fails to disclose a double container (Office Action, page 3, line 2), but on the other hand asserts that '913 discloses both an outer container and an inner container (Office Action, page 2, line 10-page 3, line 1). In making this assertion, the Office Action relies on various passages of '913; however, Applicants have carefully reviewed these passages, and find that they in fact contain no disclosure or suggestion of both an inner container or an outer container, much less the concept of the inner container having a transmissivity of 90% or less than that of the outer container. Rather, they refer to different transmissivities in different portions of the same container.

Accordingly, since neither '913 nor '317 discloses a double container of pyrolytic boron nitride, then the combination of '913 and '317 would not result in a pyrolitic boron nitride double container, and thus would not have rendered obvious independent claim 1.

Additionally, the claimed invention has various advantages, such as efficient heating of the inner container, good temperature controllability, high heat efficiency, and stability in use (see page 4, lines 1-16 of the specification). The applied prior art does not recognize the provision and/or enhancement of these advantages by the claimed combination of features. This fact also urges a holding of non-obviousness.

For at least the reasons discussed above, Applicants assert that independent claim 1 and its dependent claims define patentable subject matter. Accordingly, Applicants respectfully request that the rejection of claims 1-22 and 25-27 be withdrawn.

Regarding the Restriction Requirement of the August 28, 2002 Office Action, in a telephone conference, Applicants' representative provisionally elected group I, claims 1-22, with traverse. Furthermore, applicants assert that every feature of claim 1 is included in each of claims 23 and 24. MPEP §821.04 states that "if the elected invention is directed to the product, and the claims directed to the product are subsequently found patentable, process

claims which either depend from or otherwise include all of the limitations of the allowable product will be rejoined." (Emphasis in original). Thus, upon allowance of the product claims of group I, method claims 23 and 24 must be rejoined and examined.

Moreover, because method claims 23 and 24 include all of the limitations of claim 1, the subject matter of all of claims 1-24 is sufficiently related that a thorough search for the subject matter of group I (claims 1-22) would encompass a search for the subject matter of group II (claims 23 and 24). Thus, the search and examination of the entire application (claims 1-24) could be made without serious burden. MPEP §803 states "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct invention." It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office. Accordingly, withdrawal of the Restriction Requirement is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-27 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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WPB/TMN:vam

Attachment:
Petition for Extension of Time

Date: September 22, 2003

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